Sunday Baseball.—A few peace loving citizens of Atlantic City, residing near Inlet Baseball Park, filed a bill to restrain Sunday baseball playing because of the noise and disturbance of the peace and quiet of the Sabbath. More than 40 persons similarly situated swore that the noises were quite inappreciable and not at all disturbing. The case turned upon the question whether or not the affidavits on behalf of defendants showed the complainants to be untruthful as to the existence of the noise. The Chancery Court in McMillan et al. *v.* Kuehnle et al., 73 Atlantic Reporter, 1054, holds that a preliminary injunction will issue if there be no proof that complainants are morbidly sensitive and their affidavits show a cause of nuisance, it being presumed that they are persons of ordinary sensibility and truthful concerning the existence of the nuisance as to themselves.

Nonintoxicating Liquor Regulations as Interference with Constitutional Privileges.—An act was passed in Alabama which prohibited sale of certain nonintoxicating liquors at any place where the sale of spirituous, vinous, or malt liquors was forbidden by law. In Elder *v.* State, 50 Southern Reporter, 370, it was urged that the Legislature had no power to prohibit the sale of articles not injurious to either the health or the morals of the people, and that such a statute was an unwarranted invasion of the rights of the citizen. On the other hand, it was asserted that in order more thoroughly to prohibit the sale of malt liquor, known to be an intoxicant, and to safeguard against evasions of such law, the state had power to prohibit the sale of any beverages containing the ingredient of malt liquors. The Alabama Supreme Court held the act unconstitutional, concluding that these drastic prohibitory laws are doubtless intended for the moral benefit and elevation of mankind; but their moral purpose or beneficent results must not be considered, to save them, when they invade the sanctity of the constitutional rights of our citizens.

Right of Gas Company to Quit Business.—In the case of East Ohio Gas Co. *v.* City of Akron, 90 Northeastern Reporter, 40, the question arose as to the right of the gas company to withdraw from business in the city and remove its mains and plant. It had been operating under a charter reciting the objects of incorporation as the maintenance of pipe lines running through certain counties and furnishing gas to certain towns and cities "and to other cities," etc. The Akron ordinance granting the right to operate in the streets gave the company authority to repair and remove its mains, pipes, etc. The Ohio Supreme Court held that the remedy for nonuser of the company's charter powers was with the state and not the city, and that its acceptance of the city ordinance did not constitute an irre-

vocable contract; that, while the city might prescribe rates for gas furnished after the expiration of an agreement relating thereto, the company could not be compelled to accept the new rate and might withdraw to more promising fields to continue its business.

Venue of Action for Injuries from Explosion beyond State Boundary.—Where the negligent explosion of a car load of dynamite standing in Kentucky resulted in the demolition of appellant's house situated a few yards distant, but in the state of Tennessee, the Court of Appeals of Kentucky in Smith *v.* Southern Ry. Co., 123 Southwestern Reporter, 678, held that an action for damages for the destruction of the house might be brought at the option of the owners in the county and state where the house was situated or in the county and state where the negligence was committed. The entire happening, though beginning in Kentucky and ending in Tennessee, was but one transaction, or a single accident, transpiring upon and on either side of an invisible line separating the two states. Therefore it occurred in both at the same time, and for that reason should be regarded as having occurred wholly in either. Consequently the venue may be laid in either jurisdiction.

Negligence of Deer Hunters.—Three men, plaintiff, defendant, and one Lima, went deer hunting on the banks of a river thickly grown with brush. They agreed to station themselves at three runways, defendant 200 yards above, and plaintiff 200 yards below, Lima. Plaintiff crossed the river, and instead of going below Lima, went above him and opposite to defendant. Defendant, seeing him moving in the brush, fired, and shot him, thinking he was a deer. The Supreme Court of California in Rudd *v.* Byrnes, 105 Pacific Reporter, 957, held that as firearms are extraordinarily dangerous, and persons handling them are bound to us extraordinary care to prevent injury to others, and are held to strict accountability for want of such care, one who fires at an object moving in the brush without taking time to discover whether it is a deer or a human being is certainly guilty of negligence. Whether plaintiff was negligent in going opposite defendant was held a question for the jury. Proof of a custom of hunters along coast rivers was denied, as no evidence was offered to show that plaintiff knew of the custom at the time. The standard of care required of persons under given circumstances cannot be established by proof that others have been acting in a certain manner.